

Testimony on House Bill 5625
Mark Reinstein – Mental Health Assn. in Mich.
House Law & Justice Committee – Nov. 27, 2018

Rep. Kesto & Members of the Committee,

I'm Mark Reinstein, President & CEO of the Mental Health Association in Michigan, the state's oldest advocacy organization for persons experiencing mental illness.

HB 5625 is an important and helpful bill, and I thank the House Cares Task Force and Rep. Durhal for bringing it forward.

We face many problems with public mental health system recipient rights matters. One is that there's no viable option for mediation of a recipient rights complaint.

Under the Mental Health Code presently, mediation is not an option until a recipient rights investigation has been completed. Such an investigation may take 90 days to complete. At that point, mediation becomes an option, but only if both parties agree. That never happens because the party that has been supported by the investigation's findings has no incentive to do so. Since this opportunity was added to the Mental Health Code in 1995, it has been an empty promise.

HB 5625 moves the mediation option up to the front of the complaint process. If the complainant voluntarily wants it, then the subject of the complaint must join the complainant and a qualified mediator in attempting to broker resolution. The mediation results under 5625 are non-binding; neither party has to accept them. If the results aren't accepted, the complainant may continue to pursue the matter through the recipient rights process and any other legal state or federal grievance-and-appeal mechanisms.

Recipient rights investigations can last 90 days. During that period, rights investigators must compile 30-day status reports and a final report. Then there can be a maze of appeals after that. All of this takes time and money. Using savings from avoiding time-consuming investigations and appeal processes in favor of early mediation can bring a complaint to resolution soon after it's filed. This also makes the complaint process less confrontational, less frustrating, and more open to compromise.

Mediation has proven an efficient and effective tool in a number of settings, such as special education and, in North Carolina, Medicaid health care complaints.

The mental health advocacy community has long sought a viable mediation option for rights complaints. Right now, Michigan doesn't have one. Under HB 5625, it would. I respectfully recommend the reporting of HB 5625.

Thank you.

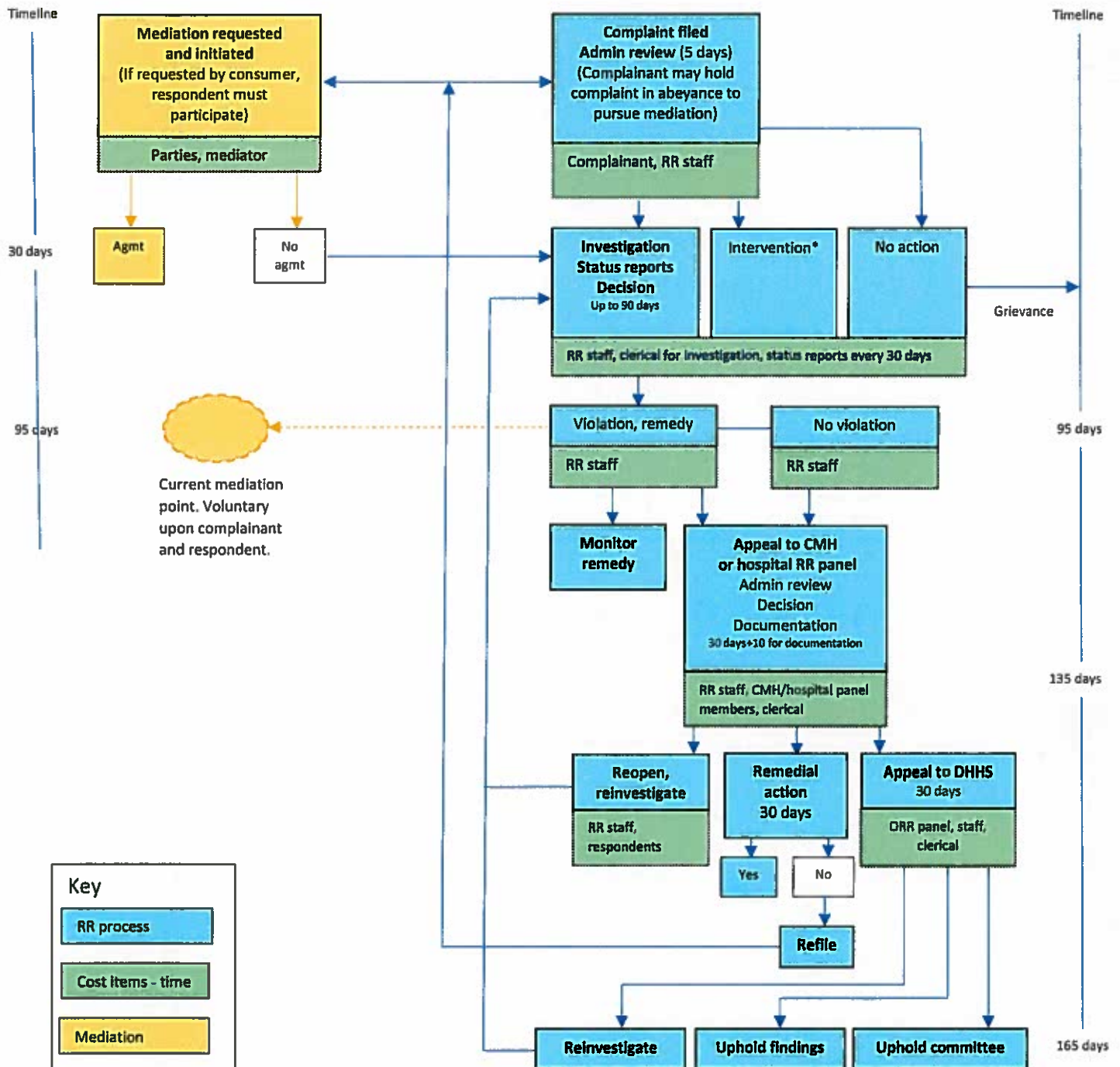
Proposed Recipient Rights Process Including Mediation under HB 5625

Bill would amend MCL 330.1788 to:

- Permit recipient rights (RR) complainant to choose mediation upon filing a complaint
- Require participation of respondent once mediation is requested by complainant
- Make mediation available throughout the recipient rights process
- Suspend all appeal and response times while mediation is pending

Rationale:

MCL 330.1788 currently negates the use of cost-effective mediation by permitting its use only after RR completes an investigation report. At that point, the "winner" of the investigation has no incentive to mediate.



* Intervention is defined as "acting on behalf of a recipient to resolve a complaint alleging a violation of a (Mental Health) Code protected right when the facts are clear and the remedy, if applicable, is clear, easily obtainable and does not involve statutorily required disciplinary action."